

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 96-0238 ST
Sales and Use Tax
For The Tax Periods: 1992 through 1994**

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ISSUES

- I. **Sales/Use Tax – Environmental Exemption:** Pressure rinsing equipment.

Authority: IC 2.5-5-30(a), 45 IAC 2.2-5-70, Information Bulletin #9

Taxpayer protests the assessment of sales/use tax on pressure rinsing equipment purchased and retrofitted to existing agricultural chemical spray applicators.

- II. **Sale/Use Tax -- Manufacturing Equipment Exemption:** Bucket-loader.

Authority: 45 IAC 2.2-5-8

Taxpayer protests the imposition of sale/use tax on a bucket loader used to mix.

STATEMENT OF FACTS

Taxpayer is primarily engaged in the storage, distribution and custom application of agricultural chemicals. These chemicals consist of liquid and dry fertilizers, insecticides, fungicides and herbicide. Taxpayer purchased rinsing equipment, consisting of water tanks, pumps and fittings, tax exempt with the intention of retrofitting its existing tractor applicators. Taxpayer will use the equipment to rinse all chemical residues from the tractor applicators while at its customer's field to avoid carrying the chemicals out of the field and contaminating other sites. Taxpayer also uses the equipment to rinse the inside of the chemical tanks of the applicators. Taxpayer is required to do this to prevent cross-contamination of chemicals applied to different fields.

Taxpayer also purchased a bucket-loader, exempt from sales tax, for use in its customer specified fertilizer mixing process. Taxpayer maintains stock piles of various fertilizers at its facility.

Depending on its consumer's needs, taxpayer formulates a custom blend of fertilizers and mixes the special blend for the customer. Taxpayer uses the bucket-loader to scoop up a quantity of a component fertilizer, and moves it to a scale-hopper and dump in the required amount of the component fertilizer. The scale-hopper empties its contents onto a conveyer belt that runs to the mixing area.

I. **Sales/Use Tax – Environmental Exemption:** Pressure rinsing equipment.

DISCUSSION

Indiana law provides, in pertinent part, that equipment like that at issue in this matter, is exempt from sales and use tax if it is used for complying with state or federal environmental laws *and* the entity acquiring the items is in the business of, *inter alia*, agriculture. Pursuant to 45 IAC 2.2-5-70, in order for the sale of pressure rinsing equipment to be exempt from state gross retail tax, the following two criteria must be met: 1) the rinsing equipment constitutes, is incorporated into, or is consumed in the operation of a device, facility, or structure predominantly used and acquired for the purpose of complying with state or federal environmental laws and 2) the person acquiring the property must be engaged in the business of agriculture.

The pressure rinsing equipment is clearly used for the purpose of complying with state and federal environmental laws and regulations. Taxpayer asserts that not only does moving the unwashed tractors from the fields risk contamination, but taxpayer must rinse unused chemicals from the tractor's onboard containers to prevent contamination. As stated in the Statement of Facts section above, the taxpayer uses the pressure rinsing equipment to rinse agricultural chemicals from its equipment. Environmental regulations also control the disposal of the resulting mix of rinse water and chemicals known in the industry as rinsate. Taxpayer, in support of its assertion, provided a copy of a letter from the Indiana State Chemist and Seed Commissioner's office. This letter states, in essence, the legal methods for disposing of pesticide and rinsate include putting the substance on the appropriate field, such as soybean pesticides on soybean fields. The letter states that the alternative is to put excess chemicals in a specially designated licensed land fill, requiring the services of a hazardous waste handler. The rinsate is usable to dilute other pesticides of the same or similar types, but must be contained with a licensed storage tank within a specially built containment area. Taxpayer further argues that all current models of tractor applicators have virtually identical pressure rinsing systems as a standard feature in order to comply with environmental laws.

The first criterion is clearly met because the Taxpayer uses the pressure rinsing equipment in compliance with environmental laws and regulations. The question remains whether the taxpayer engaged in the business of agriculture.

Pursuant to Information Bulletin #9, which addresses the agricultural machinery, tools and equipment (IC 6-2.5-5-2) exemption, the following example of exemption is provided:

Corporation C is engaged in the business of selling agricultural chemicals and fertilizers to farmers. Corporation C purchases an applicator that will be used to

spread fertilizer on its customer's fields. The purchase of the applicator is exempt because the application of fertilizers and agricultural chemicals is necessary and plays a key role in the raising of crops.

It must follow that if Taxpayer is engaged in agriculture for purposes of the agricultural exemptions, then he is likewise engaged the business of agriculture for purposes of granting an environmental exemption for their purchase of pressure rinsing equipment.

FINDING

Taxpayer's protest is sustained.

II. Sale/Use Tax -- Manufacturing Equipment Exemption: Bucket-loader.

DISCUSSION

Taxpayer seeks an exemption for its bucket-loader and items used to repair and maintain it. Taxpayer claims the bucket-loader is an integral part of the manufacturing process, because taxpayer uses it exclusively for mixing fertilizers. Indiana law provides an exemption from sales and use tax for tangible personal property that is used in the direct use of the direct production of other tangible personal property.

Transactions involving manufacturing machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property.

IC 6-2.5-5-3(b).

As stated in the previous section, exemptions statutes are construed strictly against the taxpayer, *see Harlan Sprague Dawley, Inc. v. Indiana Dep't of State Revenue*, 605 N.E.2d 1222 (Ind. Tax Ct.1992). In order to obtain the manufacturing exemption, taxpayer must show the equipment and consumables are an essential and integral part of the procedure by which a marketable product is produced. In making this determination, the production process is viewed as *continuous and indivisible*. *Indiana Dep't of State Revenue v. Cave Stone, Inc.* 457 N.E.2d 520 at 524(Ind.1983).

In this case, the manufacturing process is the production of a mixture of fertilizer. According to taxpayer, the bucket-loader scoops up the component fertilizers and dumps them into scale-hopper with a digital readout. When the required amount of the component fertilizer is transferred into the scale-hopper, the bucket-loader stops dumping and returns the unused portion to the storage pile. The component fertilizer, meanwhile, is transferred to the mixing unit by conveyer belt. Taxpayer claims that the production process begins with the bucket-loader, and in support taxpayer cites *Indiana Dep't of State Revenue v. Cave Stone, Inc. Supra* for the proposition that equipment used to move product within the production process is exempt. On the other hand, the bucket-loader's activities could be considered pre-production, and that

production does not begin until the proper amount of component fertilizer is measured. Because the bucket-loader is only used to move component fertilizers to the scale-hopper, and the production process could not begin without the bucket-loaders activities, the bucket-loader sets the production process into motion. Therefore, it appears that the production process begins when the bucket-loader removes the component fertilizers from storage. Because, the bucket-loader performs an essential and integral part within the production process it is exempt under Indiana law.

FINDINGS

Taxpayer protest is sustained.